

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

DOUGLAS UNGERER, as representative for)	
the estate of MARSELLA UNGERER,)	
deceased, and his personal capacity,)	Case No. 04-06116-CV-SJ-DW
)	
Plaintiff,)	
)	
v.)	
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Defendants.)	

ORDER

The Court has carefully considered the briefing in this case. See Docs. 30, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43. Based on the totality of circumstances, a dismissal without prejudice is the best resolution. See Fed. R. Civ. P. 41(a)(2). If the case litigated in the future, the Court will expect Plaintiff to diligently pursue his claims. The Court hereby

GRANTS Plaintiff's first motion for dismissal without prejudice (Doc. 32);

ORDERS that this case is DISMISSED WITHOUT PREJUDICE as to all defendants;

DENIES as moot the government's motion for summary judgment (Doc. 30);

DENIES as moot Plaintiff's motion to amend scheduling order (Doc. 35); and

DENIES as moot Plaintiff's second motion for dismissal without prejudice (Doc. 36).

SO ORDERED.

Date: May 1, 2006

/s/ DEAN WHIPPLE
Dean Whipple
United States District Judge